

## APPENDIX A

<b>Applicants name</b>	Mr G Uddin and Mr R Miah
<b>Name and address of premises</b>	73 High Street Markyate St Albans Hertfordshire AL3 8PJ
<b>Ward</b>	Watling

### 1. Current Licence

- 1.1 The premises is not currently subject to authorisation under the Licensing Act 2003.

### 2. Application

- 2.1 An application has been made by Mr G Uddin and Mr Md R Miah for the grant of a new premises licence under s.17 of the Licensing Act, and this application is set out at Annex A.

The application seeks to authorise the following licensable activities:

#### **Supply of alcohol (for consumption on premises)/hours premises open to the public**

Monday to Saturday	12:00 hours until 23:30 hours
Sunday	12:00 hours until 22:00 hours

#### **Live music**

Indoors

Monday	18:00 hours until 22:00 hours
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Live music limited to four occasions per year, one event each quarter.

#### **Anything of a similar description to that falling with live music, recorded music and the performance of dance**

Indoors

Monday	18:00 hours until 22:00 hours
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- 2.2 A plan of the premises and map of the area are set out at Annexes B1 and B2

### **3. Details of Representation**

- 3.1 The consultation period for the application was between 19<sup>th</sup> November and 16<sup>th</sup> December 2015.
- 3.2 During this period one representation was received, from a person living in the vicinity of the premises, citing concerns in respect of public nuisance. This representation is set out at Annex C.
- 3.3 Negotiation has taken place between the parties, however no agreement has been reached. Details of the negotiations are set out at Annex D.
- 3.4 The following responses were received from responsible authority officers in respect of the application:  
Police: No relevant representations.  
Fire Officer: No relevant representations  
Environmental Health (Noise) : No relevant representations.  
Environmental Health (Health and Safety) : No relevant representations.

### **4. Observations**

- 4.1 Relevant extracts from the Council's Statement of Licensing Policy and the statutory guidance are set out at Annex E.

# ANNEX A Application form

Licensing, Dacorum Borough Council, Civic Centre, Marlowes, Hemel Hempstead, HP1 1HH

Revised October 2012



## Application for a premises licence to be granted under the Licensing Act 2003

### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**I/We** GYASH UDDIN & Md RIFON MIAH  
*(Insert name(s) of applicant)*



apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/We are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

### Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
73 HIGH STREET.			
Post town	MARKYATE	Post code	AL3 8PJ
Telephone number at premises <i>(if any)</i>			
Non-domestic rateable value of premises		£ 8,800	

### Part 2 – Applicant Details

Please state whether you are applying for a premises licence as:

*Please tick ✓ as appropriate*

- |  |  |
|--|--|
| <p>a) an individual or individuals *</p> <p>b) a person other than an individual *</p> <p style="margin-left: 20px;">i. as a limited company</p> <p style="margin-left: 20px;">ii. as a partnership</p> <p style="margin-left: 20px;">iii. as an unincorporated association or</p> | <p><input type="checkbox"/> please complete section (A)</p> <p><input type="checkbox"/> please complete section (B)</p> <p><input checked="" type="checkbox"/> please complete section (B)</p> <p><input type="checkbox"/> please complete section (B)</p> |
|--|--|

- iv. other (for example a statutory corporation)  *please complete section (B)*
- c) a recognised club  *please complete section (B)*
- d) a charity  *please complete section (B)*
- e) the proprietor of an educational establishment  *please complete section (B)*
- f) a health service body  *please complete section (B)*
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales  *please complete section (B)*
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England  *please complete section (B)*
- h) the chief officer of police of a police force in England and Wales  *please complete section (B)*

**\* If you are applying as a person described in (a) or (b) please confirm:**

*Please tick ✓ yes*

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
  - o statutory function or
  - o a function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title (for example, Rev.)			
Surname			
First names			
I am 18 years old or over		<input type="checkbox"/> <i>Please tick ✓ yes</i>	
Current postal address if different from premises address			
Post town		Post code	
Daytime contact telephone number			
Email address (optional)			

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title (for example, Rev.)			
Surname	[REDACTED]		
First names	[REDACTED]		
I am 18 years old or over			<input checked="" type="checkbox"/> Please tick ✓ yes
Current postal address if different from premises address	[REDACTED]		
Post town	[REDACTED]	Post code	[REDACTED]
Daytime contact telephone number	[REDACTED] / [REDACTED]		
Email address (optional)	[REDACTED]		

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name	[REDACTED]
Address	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Registered number (where applicable)	
Description of applicant (for example, partnership, company, unincorporated association, etc.)	PARTNERSHIP
Telephone number (if any)	
Email address (optional)	

**Part 3 – Operating Schedule**

When do you want the premises licence to start?

Day	Month	Year
20	12	2015

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day	Month	Year

Please give a general description of the premises (please read guidance note 1)

THE PREMISES WILL BE AN INDIAN RESTAURANT  
ALCOHOL WILL BE SERVED FOR CONSUMPTION WITH  
FOOD ON THE PREMISES

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?  
(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

**Provision of regulated entertainment**

Please tick ✓ yes

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Supply of alcohol** (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

**A**

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick ✓ (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 3)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

**B**

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both – please tick ✓ (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 3)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

**C**

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 6)			<b>Please give further details (please read guidance note 3)</b>
Day	Start	Finish	
Mon			
Tue			<b>State any seasonal variations for indoor sporting events (please read guidance note 4)</b> N/A
Wed			
Thur			<b>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 5)</b>
Fri			
Sat			
Sun			

**D**

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 6)			<b>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick ✓ (please read guidance note 2)</b>	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			<b>Please give further details here (please read guidance note 3)</b> N/A	
Thur				
Fri			<b>State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)</b>	
Sat				
Sun				
			<b>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)</b>	

**E**

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick ✓ (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	1800	2200	Please give further details here (please read guidance note 3) Amateur or look a like pop idols such as elvis, ABBA, MUSIC TRIBUTE NIGHTS ONLY FOR OVER 21s	Both	<input type="checkbox"/>
Tue				State any seasonal variations for the performance of live music (please read guidance note 4) NO SEASONAL VARIATION JUST ONE PER EVERY THREE MONTHS. FOUR IN A YEAR.	
Wed				Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5) We will not be holding any live music ON NON STANDARD TIMINGS.	
Thur					
Fri					
Sat					
Sun					

**F**

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick ✓ (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 3) N/A	Both	<input type="checkbox"/>
Tue				State any seasonal variations for the playing of recorded music (please read guidance note 4)	
Wed			Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 5)		
Thur					
Fri					
Sat					
Sun					

**G**

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both – please tick ✓ (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon						
Tue						
Wed			State any seasonal variations for the performance of dance (please read guidance note 4)			
Thur			N/A			
Fri						
Sat			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 5)			
Sun						

**H**

Anything of a similar description to that falling within e, f or g Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing LIVE TRIBUTE NIGHTS OR KARAOKE EVENINGS.			
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both – please tick ✓ (please read guidance note 2)		Indoors	<input checked="" type="checkbox"/>
Mon	1800	2200			Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Tue			Please give further details here (please read guidance note 3) KARAOKE EVENING WHERE CUSTOMERS SING ALONG WITH BACKGROUND MUSIC			
Wed			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4) These will be either live Tribute bands or KARAOKE.			
Thur						
Fri			Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 5)			
Sat			These will not fall on Non Standard times.			
Sun						

**Where are the sections for 'Provision of facilities for making music and dancing'?**

Changes under the Live Music Act mean that from the 1<sup>st</sup> October 2012, you no longer need a licence to provide facilities for making music, or facilities for dancing, or facilities for entertainment similar to music and dancing.

You will still need a licence if you are providing the entertainment, rather than simply providing facilities for use by customers.

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick ✓ (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 3)	Both	<input type="checkbox"/>
Tue					
Wed					
Thur			State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Fri					
Sat			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 5)		
Sun					

J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption:</b> (Please tick box ✓) (please read guidance note 7)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon	12.00	23.30	<b>State any seasonal variations for the supply of alcohol (please read guidance note 4)</b>  NO SEASONAL VARIATIONS. ONLY TIMES STATED.		
Tue	12.00	23.30			
Wed	12.00	23.30			
Thur	12.00	23.30			
Fri	12.00	23.30			
Sat	12.00	23.30			
Sun	12.00	22.00			
			<b>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)</b>  NON STANDARD TIMINGS. ONLY AS STATED.		

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

<b>Name</b>	[REDACTED]
<b>Address</b>	[REDACTED]
<b>Postcode</b>	[REDACTED]
<b>Personal Licence number (if known)</b>	[REDACTED]
<b>Issuing licensing authority (if known)</b>	[REDACTED] BOROUGH COUNCIL

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

N/A

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	12.00	23.30	N/A
Tue	12.00	23.30	
Wed	12.00	23.30	
Thur	12.00	23.30	
Fri	12.00	23.30	
Sat	12.00	23.30	
Sun	12.00	22.00	

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

- MONTHLY REVIEW OF DPS DUTIES AND RESPONSIBILITIES.
- MONTHLY REFRESHER STAFF TRAINING.
- NEW STAFF TRAINING.
- SELLING TO CONSUMERS THAT COMPLY WITH LAW.
- I WOULD ALSO WELCOME ANY SUGGESTION FROM LOCAL AUTHORITY AND PUT IN PREVENTIVE MEASURES IN PLACE.

b) The prevention of crime and disorder

I WOULD TRY TO DO WHATEVER WITHIN MY CONTROL SUCH AS;

- NOT SELLING TO DRUNKEN
- NOT SELLING TO UNDERAGE
- PROMOTE CHALLENGE 25
- TRAIN STAFF ADEQUATELY.

c) Public safety

- NOT SELL TO UNDERAGE
- TO DRUNKENS
- NOT ALLOW TO DRINK ON WAY TO HOME / PUBLIC PLACE.
- MAINTAIN THE 4 LICENSING OBJECTIVES
- I WOULD ALSO WELCOME ANY SUGGESTIONS FROM LOCAL AUTHORITY.

d) The prevention of public nuisance

- I WOULD NOT DO LATE NIGHT EVENTS SUCH AS IN HOUSE MUSIC EVENTS.
- NOT SERVE OR SELL ALCOHOL TO DRUNKEN CUSTOMERS
- NOT ENCOURAGE CUSTOMERS TO DRINK AFTER CLOSING.
- TO PREVENT ANY NUISANCE TO PUBLIC.

e) The protection of children from harm

- I WOULD NOT SELL TO UNDERAGE CUSTOMERS.
- PROMOTE CHALLENGE 25 – ASK FOR ID FOR ANYONE THAT LOOKS UNDER THE AGE OF 25 AND ASK TO PRODUCE I.D.
- I WOULD ALSO WELCOME ANY SUGGESTIONS FROM LOCAL AUTHORITY.

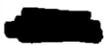
Please tick ✓ to indicate approval

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

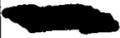
**IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.**

**Part 4 – Signatures** (please read guidance note 10)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	16.11.15
Capacity	PARTNER.

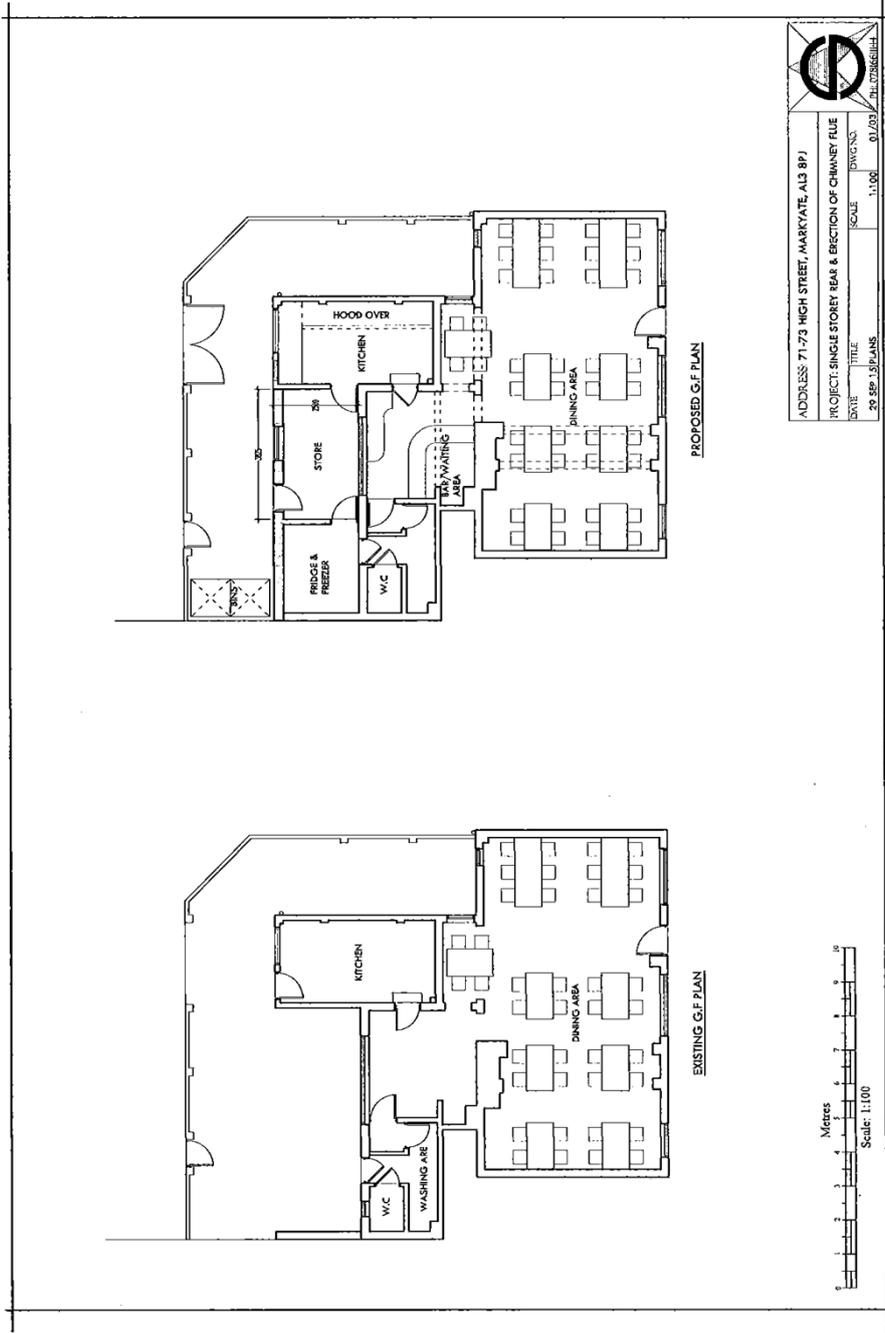
**For joint applications signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent** (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature		
Date	16.11.15	16.11.15
Capacity	PARTNER.	PARTNER.

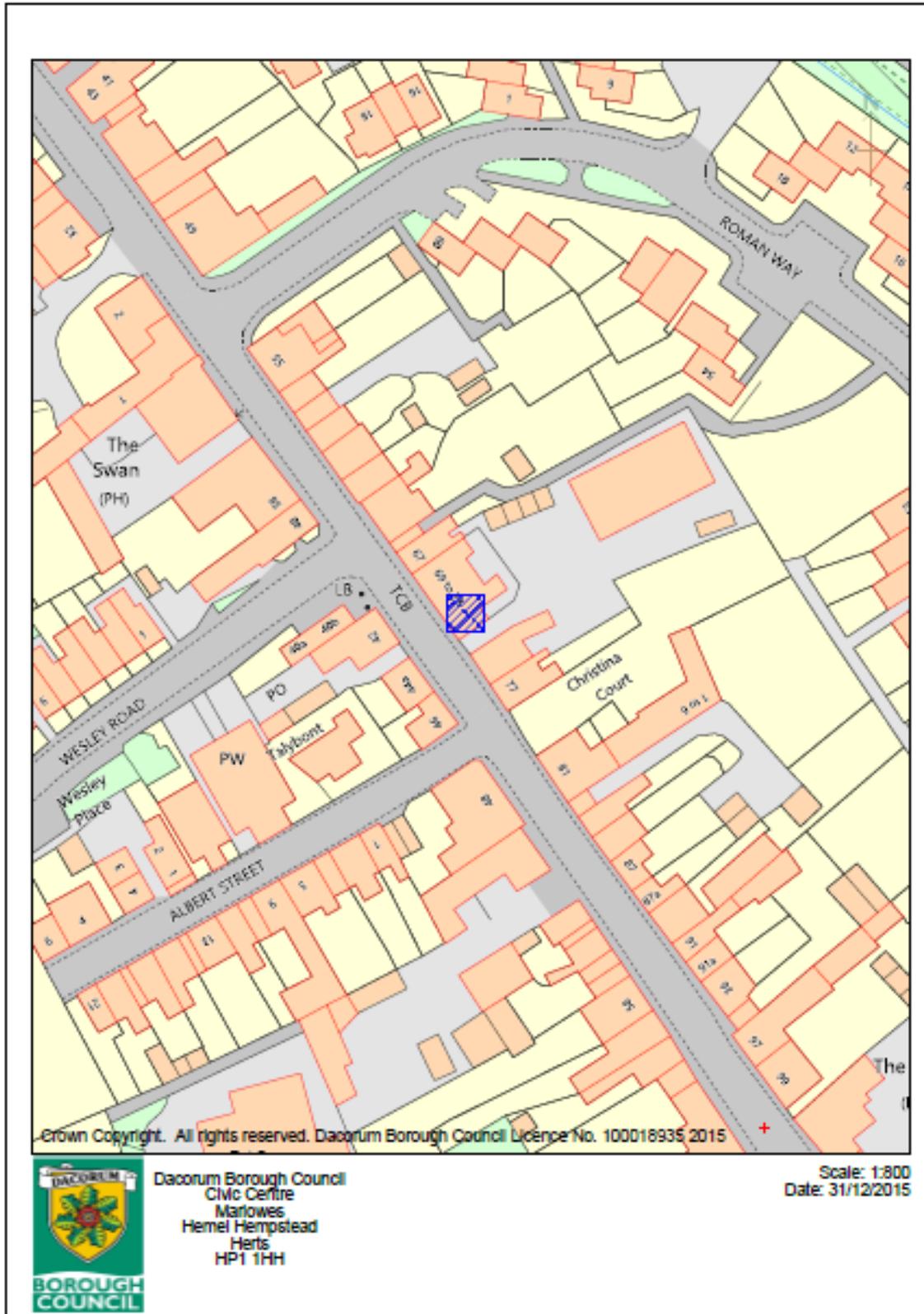
**Contact name (where not previously given) and address for correspondence associated with this application.** (please read guidance note 13)

Telephone number (if any)	
If you would prefer us to correspond with you by email your email address (optional)	

# ANNEX B1 PLAN OF PREMISES



**ANNEX B2  
MAP OF AREA**



**ANNEX C  
REPRESENTATION**

**From:**  
**Sent:** 03 December 2015 13:36  
**To:** Licensing Mailbox  
**Subject:** Application for grant of a Premises License - 73 High Street , Markyate

Markyate  
St Albans  
Herts

Dear Sir Madam

I am writing to express my objection to the Premise Licence displayed in the property adjoining my house in Markyate High Street, I am unsure when this notice was first posted because as such it is not dated.

It is my strong feeling that this would be detrimental creating anti social behaviour at unsociable times not to mention the noise levels which would be totally unacceptable in existing domestic environment.

When the previous business had evening events they could clearly be heard through our walls and the introduction of alcohol could only make this nuisance escalate.

Please also take into consideration what this may do to property prices in the High Street especially for the houses in direct proximity.

Markyate already has a restaurant that has such a Licence and by granting the afore mentioned I can not see what it will add to our community.

Please feel free to contact me with any queries regarding this matter my personal email is \*\*\*\*\* and also copy in my partner \*\*\*\*\*

Regards

**ANNEX D  
NEGOTIATIONS**

-----Original message-----

From : [Licensing@dacorum.gov.uk](mailto:Licensing@dacorum.gov.uk)

Date : 17/12/2015 - 09:59 (GMTST)

To :

Subject : FW: Application for grant of a Premises License - 73 High Street , Markyate

Good morning Mr Uddin and Mr Miah

I am writing to advise you that we have received one representation in respect of your application to grant a premises licence, and therefore, unless the representation is withdrawn, the application will be determined by the Alcohol and Gambling Sub-Committee in the New year on a date to be confirmed.

The person making the representation has advised me that he is willing to negotiate at this stage to see if mutual agreement can be reached, but this MUST be done through me. This could result in modifications to the application which would be agreeable to both parties in order to avoid the hearing process. If the representation is withdrawn the application will then be granted as agreed. Please let me know if you wish to do this.

Kind regards

**S A Taylor**

Sally Taylor  
Lead Licensing Officer  
Legal Governance  
Dacorum Borough Council  
Tel: 01442 228470

**From:** GYASH UDDIN

**Sent:** 22 December 2015 01:53

**To:** Licensing Mailbox

**Subject:** Re: FW: Application for grant of a Premises License - 73 High Street , Markyate

Dear Sally

sorry i couldn't finish off the last email I accidentally pressed send.

As I was saying i am going to withdraw the Live Entertainment which I put in my application. There would be no noise just customers sitting in the Restaurant and enjoying a quiet dinner with drinks,

Furher more all the glass windows doors are going to be 10.8 laminated the ceiling of the Restaurant will have sound proofing so no noise whatsoever will be heard. I can send proof of this if you require.

In the kitchen with the ducting vent I have proposed to put silencer to cut out the noise completely with double carbon, grease filters. the system is called UV system.

Markyate is a lovely quite village I have met many on the High St, very friendly and welcoming I have asked there opinion on opening a Restaurant everyone was happy and said they would like something different le,a bit of Thai, chinese cuisine which will be on the menu as well as Indian. I hope we can resolve this mutually, Thank you. Kind Regards G. Uddin.

**From:** Licensing Mailbox [<mailto:Licensing@dacorum.gov.uk>]

**Sent:** 22 December 2015 09:17

**To:**

**Subject:** FW: FW: Application for grant of a Premises License - 73 High Street , Markyate

Good morning

I wrote to Mr Uddin, the applicant for 73 High Street Markyate, attaching a redacted copy of your application, and advising him of the position. Mr Uddin has responded by sending the attached e-mail, stating his intention to withdraw the live entertainment applied for from the application. He has also referred to steps he has taken to limit noise and smells escaping from the premises.

Please let me know if, with the modifications to the application, you are willing to withdraw your representation. If so I will cancel the arrangements currently being worked upon for the hearing in the new year.

Kind regards

**S A Taylor**

Sally Taylor  
Lead Licensing Officer  
Legal Governance  
Dacorum Borough Council  
Tel: 01442 228470

**From:**

**Sent:** 22 December 2015 10:36

**To:** Licensing Mailbox

**Subject:** RE: FW: Application for grant of a Premises License - 73 High Street , Markyate

Hello Sally

I would like to continue with the hearing please.

Kind regards

**From:****Sent:** 22 December 2015 11:11**To:** Sally Taylor**Cc:****Subject:** RE: FW: Application for grant of a Premises License - 73 High Street , Markyate

Hello Sally

When we bought our property when next doors was a shop (ex Post Office) as such it would be open during the course of the day and not affect us on a day to day basis and would be shut when we returned from work.

Subsequently the change of purpose to A1 (café) still was acceptable as the hours of business again did not collide with our "down time" , however when they did have the occasional evening event the noise and smells started to encroach on us..

My concerns now increase as once you have allowed a alcohol licence, the change of purpose is once more upgraded at a time when we are at home , there will be people who drink which will invariably mean there will people who smoke, this will mean I will have people outside my front door chatting, smoking in between courses, not to mention the extra litter, less parking, extra noise at unsociable hours.

Therefore I would like to proceed with he hearing so I can stress all these points.

Kind Regards

**Annex E**

**Local policy considerations and national statutory guidance**

**It is considered that the following extracts from the Council's Statement of Licensing Policy and National Guidance have a bearing on the application:**

1.5 Nothing in this Statement of Licensing Policy prevents applications being considered on their own merits, nor will it undermine the right of any person applying for a variety of permissions under the Act.

1.7 In addressing these matters the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

1.12 The licensing process seeks only to control those measures within the control of the licensee and in the vicinity of the premises. Licensing legislation is not a mechanism for the general control of anti social behaviour by individuals once they are away from the premises and beyond the direct control of the licence holder. Nonetheless, it is a key aspect of such control, and licensing law will always be a part of a holistic approach to the management of the evening and night-time economy in Dacorum.

3.2 In carrying out its licensing functions, the Licensing Authority must also have regard to its policy statement, and any statutory guidance under the Act, it is also bound by the Human Rights Act 1998. The Licensing Authority must also fulfil its obligations under section 17 of the Crime and Disorder Act 1998 as follows: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority....to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area".

3.3 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means for solving all local problems. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the police, local businesses and local people towards the promotion of the licensing objectives as outlined.

### **Licensing Hours**

6.3 The Licensing Authority expects that issues relating to licensing hours will be addressed by the applicant in the operating schedule.

6.4 In the interests of reducing crime, disorder and anti-social behaviour the Licensing Authority will prefer applications from public houses, night-clubs and registered clubs that show in their operating schedules a responsible approach to alcohol sales by:

- ending alcohol sales at a designated time before they close, i.e. a closing time later than a "last orders" time for alcohol sales;
- Specifying a time by which the premises will be emptied of patrons and closed.

6.6 The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are likely to be imposed with regard to noise control in the case of premises that are situated in largely residential areas.

## **10. Licence Conditions**

10.1 The Licensing Authority will avoid imposing disproportionate conditions on premises. It will only impose conditions that are necessary in order to promote the licensing objectives and are in themselves reasonable and proportionate.

10.2 In the case of an unopposed application the Licensing Authority has the discretion only to apply conditions that are consistent with the operating schedule. Where there are relevant representations and these are upheld by the Licensing Authority's Licensing Committee, further conditions may be attached to a licence in pursuance of the promotion of the licensing objectives.

10.4 The Council will seek to avoid attaching conditions to licences unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation (as indicated in paragraph 13.9 of the Secretary of State's Guidance). It is not the Licensing Authority's intention to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators e.g. The Health and Safety at Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.

## **19. Administration, Exercise and Delegation of Functions**

19.3 Applications where there are relevant representations will be dealt with by a Sub-Committee of the Licensing Authority, as will any application for review of a licence.

## **NATIONAL GUIDANCE**

### **Each application on its own merits**

1.17 Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

### Public Nuisance

2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the

community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

#### Determining applications

9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant, the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious. Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

9.36 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.

9.37 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

9.38 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may

grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.

#### Imposed conditions

10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.